

November 9, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-11194
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAMON ERNESTO MEDINA LIMAS,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:04-CR-44-ALL

Before DAVIS, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:*

Ramon Ernesto Medina Limas ("Medina") appeals his guilty plea conviction and sentence for illegally reentering the United States after having been deported and after having been convicted of a felony, in violation of 8 U.S.C. § 1326(a) and (b). For the first time on appeal, Medina argues that his 57-month prison sentence violates United States v. Booker, 125 S. Ct. 738 (2005), insofar as he was sentenced under the formerly mandatory Sentencing Guideline regime.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Medina concedes that, under this court's precedent, his Booker claim fails because he cannot show that the alleged error affected his substantial rights. See United States v. Valenzuela-Quevedo, 407 F.3d 728, 733 (5th Cir.), cert. denied, 126 S. Ct. 267 (2005); United States v. Mares, 402 F.3d 511, 521 (5th Cir.), cert. denied, 126 S. Ct. 43 (2005). To the extent that Medina contends that application of the mandatory Guideline regime was a "structural" error that is not susceptible to plain-error analysis, or alternatively that plain-error prejudice should be presumed, we have rejected such arguments. See United States v. Martinez-Lugo, 411 F.3d 597, 601 (5th Cir. 2005), cert. denied, ___ S. Ct. ___ (Oct. 11, 2005) (No. 05-6242).

AFFIRMED.